

expresses a heterologous protein, comprising a nucleic acid sequence operably linked to a promoter encoding the heterologous protein.

24. A method for producing a heterologous protein comprising: (a) culturing a non-toxic, non-toxigenic, non-pathogenic *Fusarium venenatum* host cell of claim 23; and (b) isolating the heterologous protein.

25. An isolated non-toxic, non-toxigenic, non-pathogenic *Fusarium venenatum* host cell comprising a nucleic acid sequence encoding a heterologous protein.

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#### REMARKS

Claims 20-22 have been canceled. New claims 23-25 have been added and are pending in the present application.

It is respectfully submitted that the present amendment presents no new issues or new matter and places this case in condition for allowance. Reconsideration of the application in view of the above amendments and the following remarks is requested.

##### I. Priority

Applicants have inserted in the specification reference to domestic priority as the first sentence of the specification to claim benefit of priority, as noted above.

##### II. Specification

The Office Action indicated that the instant application fails to comply with the requirements of 37 CFR 1.821 through 1.825 because there is no corresponding sequence listing either on paper or in CRF in the application. Applicants submit a statement to invoke the procedures of 37 CFR 1.821(e) in which the identical computer readable form from 08/816,915 is to be used in the instant application. A Verified Statement by the undersigned is attached. This submission contains no new matter.

##### III. Drawings

A new set of drawings for Figures 1-14 are attached to overcome the objections in the Draftsperson's report.